

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ROBERT PORTER,)	
)	Civil Action No. 04 - 1228
Plaintiff,)	
)	Judge Thomas M. Hardiman /
v.)	Magistrate Judge Lisa Pupo Lenihan
)	
A. KING, Correction Officer;)	
ORENBAUN, Correction Officer;)	
CONNOR, Correction Officer; MARK)	
CAPOZZA, Unit Manager; DURCO,)	
(Sergeant); THE LIEUTENANT; and)	
THE SERGEANT,)	
)	
Defendants.)	

MEMORANDUM ORDER

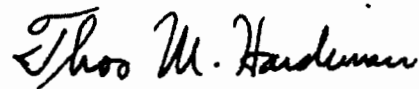
The above-captioned prisoner civil rights action was received by the Clerk of Court on August 17, 2004, and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation (Doc. No. 36), filed on October 24, 2006, recommended that Defendant's Motion to Dismiss (Doc. No. 28) be denied. The report and recommendation was served on the Plaintiff at S.C.I. Camp Hill, P.O. Box 200, Camp Hill, PA 17001 and on counsel for the Defendants. The parties were advised they were allowed ten (10) days from the date of service to file written objections to the report and recommendation. No objections have been filed. After review of the pleadings and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 4th day of December, 2006;

IT IS HEREBY ORDERED that Defendants' Motion to Dismiss (Doc. No. 28) is **DENIED**.

IT IS FURTHER ORDERED that the Report and Recommendation (Doc. No. 36), filed on October 24, 2006, by Magistrate Judge Lenihan, is adopted as the opinion of the court.

A handwritten signature in cursive script, reading "Thos M. Hardiman".

Thomas M. Hardiman
United States District Judge

cc: Lisa Pupo Lenihan
United States Magistrate Judge

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Counsel of record.